Robert Flatt PO Box 1034 Captain Cook HI 96704

808 328 0634

November 7th 2007

TO: Office of Chairman Kevin Martin, attn: Michelle Carey

CC: Office of Commissioner Michael Copps, attn: Rick Chessen
Office of Commissioner Jonathan Adelstein, attn: Rudy Brioche
Office of Commissioner Deborah Taylor Tate, attn: Amy Blankenship
Office of Commissioner Robert McDowell, attn: Cristina Pauze
Monica Desai, Chief, Media Bureau
William Davenport, Assistant Chief, Enforcement Bureau
Steven Broeckaert, Senior Deputy Chief, Policy Division, Media
Bureau

Michael Lance, Deputy Chief, Engineering Division, Media Bureau Brendan Murray, Attorney Advisor, Policy Division, Media Bureau

RE: Public Comment - Plug and Play Proceedings (97-80).

How would the FCC interpret its plug and play order with respect to Switched Digital Video (SDV)? There is a pressing need for immediate clarification as explained below.

My local cable company, Oceanic Time Warner in Hawaii, claims that one-way video programming (e.g. regular non-interactive TV) delivered using a bidirectional electronic protocol (e.g. SDV) is not "one-way programming". Thus plug and play (CableCard) support is not required for such an SDV channel. See attached copy of e-mails between myself and Oceanic ('oceanic emails.htm').

The attached channel listing ('oceanic channel lineup.doc') shows that 135 of 248 Oceanic Time Warner TV channels are not available to CableCard users ('on demand', 'PPV', and 'audio only' excluded). It seems to me that in disabling slightly more than half the regular TV channels, Oceanic Time Warner has effectively bypassed the requirements for plug and play television by its interpretation of the order and its extensive use of SDV.

To my knowledge since September 26, 2007 Oceanic has stopped selling to CableCard customers its 'HD Pak', it's 'Sports Pak', and it's 'Spanish Pak'; it's 'Digital Service' is available for purchase at the regular price. As of this date and as seen by my usage of the 'Digital Service' on my CableCard equipment, SDV does not appear to have been actually implemented at my location.

To restore functionality Oceanic offers its customers rental of its own set top boxes. Oceanic has refused to defer the deployment of SDV until adapters such as a 'Tuning Resolver' are commercially

available; further it refuses to say if its internal technology will be compatible with a Tuning Resolver specification, or that it has any knowledge of a Tuning Resolver. (See 'oceanic emails.htm'.)

In my opinion SDV channels are a special case of one-way programming which will be enabled by devices such as the Tuning Resolver as described on page 32 in http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native or pdf=pdf&id do cument=6519612942 . The consumer equipment required to support SDV is not yet commercially available. Cable companies should be required to defer deployment of SDV until such time as adapters for CableCard equipment are commercially available.

Also in my opinion since SDV will be deployed to increase the efficiency of cable companies' internal operations ('oceanic emails.htm') and without extra equipment CableCard customers will be harmed by such a deployment, cable companies should be required to make CableCard users whole by providing equipment such as a Tuning Resolver free of charge to customers.

Oceanic's behavior depends upon the interpretation of the FCC's plug and play order with respect to SDV. There is a pressing need for a clarification of this rule from the FCC.

I am a customer of TiVo Inc. and of Oceanic Time Warner, and a member of the IEEE (Institute of Electrical and Electronic Engineers). I am not affiliated with any consumer electronics company, telecommunications company, or any related lobbying organization.

Robert A. Flatt

Attached:

1) 'oceanic channel linup.doc', Oceanic Time Warner channel lineup (dated 11/5/2007) showing channels "Not Available with CableCard" marked with '**'. Copied from:

http://www.oceanic.com/OceanicWebApps/Television/DigitalServices/DCL_Ko
na.html

2) 'oceanic emails.htm', copy of emails between myself and Sandy Davis of Oceanic Time Warner in Honolulu, Hawaii.

Attachments pasted below:









TV Listings

Digital Channel Lineup - Kona

Digital Services

Prices Channel Lineups Remote Control Interactive Programming Digital Video Recorder HBO, etc Interactive Voting Analog Services

HDTV

OC 16

Pay-Per-View

Subscribe Now

Cable Theft

Contact Us

Search Oceanic





Last Updated: November 5, 2007 Other listings:

- <u>Oahu</u> (🍑)
- <u>Hilo</u> (🍑)
- <u>Kona</u> (🍑)
- Kohala ()
- Kahului/Hana ()
- Lahaina/Molokai ()
- <u>Lanai</u> (🍑)
- <u>Kauai</u> (🍑)

Key: (🍑) = Printable version

	C	HANN	EL KEY		
В	Basic Service		•	Value Service	
0	Family Choice		0	Digital Spanish Package	
•	Digital Cable Service		ß	Music Choice	
•	Premium Services		•	High-Definition Channels	
÷	Pay-Per-View		¥	Video On Demand	
X	Digital Sports Package		器	Digital Encore Service	
(i)	Digital Access Service		▶•	HD Entertainment Pak	
D	Included with all Digital	Service	es		
*	except Hana & Molokai				
**	Not Available with Cable	eCard			
		2	OVC (Racio Kauai)	
	В	3		Basic-Kauai)	
**	В	5	KFVE-	I-2 (FOX)	
	В	6			
	B	7		4 (ABC) 3-9 (CBS)	
**	B	8		-13 (NBC)	
	В	9		and Television	
	В	10	ŭ	-11 (PBS)	
	В	11		E-14/KWHM/KWHH	
	В	12		4 (ABC)	
**	Œ	15		On Demand	
**	•	16	OC16		
	В	27		ct Info Network	
**	•	46	CSPA		
**	•	47	CSPA		
	В	48	CSPA	N	
	В	49	KHHB	-TV	

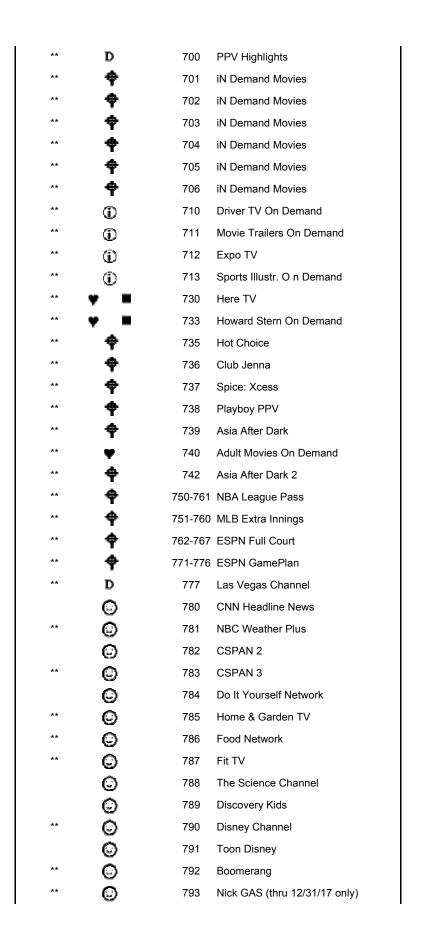
	В	5 0	Dublic Access
		52	Public Access
	В	53	Public Access
	В	54	Public Access
	В	55	Public Access
	В	56 	Public Access
		57	Home Shopping Network
	В	78	78 Hawaii/CSPAN 2 /Jewelry TV
	D	80	KBS America
	D	81	KLIFE
	D	82	Digital KBFD
**	D	85	Digital KFVE
	D -	87	Digital KGMB
**	D -	88	Digital KHNL
	D	89	Digital KIKU
	D	93	The CW
	D	100	eBILL
**	•	107	MSNBC
**	•	109	Fox News Channel
**	(i)	110	News On Demand
	•	111	Headline News
**	•	112	NewsChoice
**		113	CNN
	•	115	NBC Weather Plus
**	•	116	CNBC
**	•	117	CNBC World
**	•	118	Bloomberg TV
**	•	119	Court TV
**	D	120	Pentagon Channel
**	•	121	The Weather Channel
	D	126	KITV Island Weather
**	D	130	Korean American TV
**	♦	132	AZN TV
**	•	134	Imaginasian
	•	150	ShopNBC (Basic-Kauai)
**	D	151	Jewelry Television
	•	152	Home Shopping Network
**	D	153	QVC
	D	154	HSN Interactive
**	•	200	SportsChoice
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**	(<u>ī</u>)	202	Sports On Demand
**	•	210	Versus
**	•	212	The Outdoor Channel
**	•	214	Speed Channel
**	•	216	The Golf Channel
**	•	218	ESPN Classic
	•	219	ESPNU
**	₩	221	Hawaii Sports On Demand
	•	222	ESPN
	•	224	ESPN2
	•	225	ESPNews
	•	226	Fox Sports Net West
	•	228	Fox Sports Prime Ticket
**	•	230	Fox Soccer Channel
**	X	241	Fuel
**	X	242	NBA-TV
**	X	243	The Tennis Channel
**	x	244	Fox College Sports Atlantic
**	×	245	Fox College Sports Central
**	X	246	Fox College Sports Pacific
**	X	247	College Sports TV
**	*	254	UH iTV (seasonal)
**	†	255	UH Football PPV
**	†	256	UH Football PPV
**	*	311	Answers On Demand
	•	319	Fit TV
**	•	321	Food Network
**	•	322	Fine Living
**	•	323	Home & Garden TV
**	•	324	Do It Yourself Network
**	•	325	Travel Channel
	•	327	The History Channel
	•	328	History International
**	•	329	Animal Planet
**	(i)	330	Free On Demand
	•	331	The Learning Channel
	•	333	Discovery Channel
	•	335	Discovery Kids
	•	337	The Science Channel
			· ·

	•	341	BBC America
	•	343	Discovery Health
**	•	344	iHMSA
	•	345	The Military Channel
**	•	347	Nat'l Geographic Channel
**	D	349	Ocean Network
	①	352	Knowledge On Demand
**	D	410	Inspiration Network
**	D	411	Digital Help
**	(i)	432	Kids On Demand
	•	434	Nicktoons
	•	435	GSN
**	•	436	Nick GAS (thru 12/31/17 only)
**	•	437	G4techTV
	•	438	GSN (interactive)
**	•	439	Boomerang
**	•	440	Cartoon Network
	•	441	TV Land
	•	442	ABC Family Channel
	D	443	PBS Kids Hawaii
**	•	444	Disney Channel
**	•	445	Toon Disney
**	•	446	Nickelodeon
**	•	447	Noggin
	•	448	Lifetime
	•	449	Lifetime Movie Network
**	•	450	Lifetime Real Women
	•	451	Women's Entertainment
	•	452	Hallmark Channel
**	(i)	540	Lifestyles On Demand
	•	543	SoapNet
**	(i)	544	TV Guide Spot
**	•	545	Comedy Central
	•	547	A&E
	•	548	Biography Channel , The
	•	549	E! Entertainment TV
	•	550	Style
**	В	551	TBS
**	•	553	TNT
			•

**	55	54 FX
**	55	55 USA Network
**	♦ 55	56 Sleuth TV
**	55	57 Sci-Fi Channel
**	55	58 Oxygen
**	55	59 Spike TV/Country Music TV
**	• 56	60 Bravo
	♦ 56	61 Fox Reality Channel
**	(i) 56	62 Entertainment on Demand
	♦ 58	35 Great American Country
**	• 58	37 Country Music TV
**	♦ 58	39 VH1 Classic
	• 59	91 VH1
	♦ 59	92 MTV Hits
**	59595959	93 MTV
**	• 59	95 MTV2
**	• 59	96 Music On Demand
**	♦ 59	97 BET Jazz
	♦ 59	98 BET
**	35 59	99 Fuse
	• 60	00 American Movie Classics
**	• 60	02 Turner Classic Movies
	• 60	04 American Life TV
**	♦ 60	08 Ovation
**	♥ ■ 61	10 HBO On Demand
	■ 61	11 HBO
	■ 61	12 HBO 2
	■ 61	13 HBO Signature
	■ 61	14 HBO Family
	■ 61	15 HBO Comedy
	■ 61	16 HBO Zone
**	♥ 62	20 Movies On Demand
**	♥ ■ 62	21 Cinemax on Demand
	■ 62	22 Cinemax
	■ 62	23 MoreMax
	■ 62	24 ActionMax
	■ 62	25 ThrillerMax
**	y = 63	32 Showtime on Demand
**	■ 63	33 Showtime
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**	•	634	Showtime Too
**	•	635	Showtime ShowCASE
**	•	636	Showtime Extreme
**	•	637	Showtime Beyond
**	•	638	Showtime Next
**	•	639	Showtime Women
**	•	640	Showtime Family Zone
**	Ψ =	643	TMC on Demand
**	•	644	The Movie Channel
**	•	645	The Movie Channel Xtra
**	■ 36	646	Sundance
	•	655	Starz
	•	656	Starz Edge
	•	657	Starz In Black
	•	658	Starz Kids & Family
	•	659	Starz! Cinema
	en en	666	Encore
	æ	667	Encore Action
	de de	668	Encore Love Stories
	æ	669	Encore Mystery
	35	670	Encore Drama
	36	671	Encore Westerns
	36	672	Encore WAM!
**	36	673	Fox Movie Channel
	■ 36	674	Flix
	■ 3€	675	Independent Film Channel
	•	676	Playboy TV
		677	NGN
	•	678	NGN2 (TV Japan)
	•	679	NGN3
**	₩	680	NGN On Demand
		687	GMA Pinoy TV
	•	688	The Filipino Channel
**	0	689	Galavision
**	0	690	Fox Sports World Espanol
**	0	691	CNN Espanol
**	0	692	Discovery en Espanol
**	0	693	ESPN Deportes
**	•	699	The Chinese Channel



ور	800	Hawaiian
1 21	801	MC Sounds of the Season
ď	802	MC Today's Country
)5	803	MC Classic Country
la La	804	MC Bluegreass
la La	805	MC Hip-Hop and R&B
ß	806	MC Classic R&B
, 5	807	MC R&B Soul
)S	808	MC R&B Hits
ور	809	MC Rap
)S	810	MC Metal
جر	811	MC Rock
ور	812	MC Arena Rock
¹ 23	813	MC Classic Rock
Ţ	814	MC Adult Alternative
ß	815	MC Alternative
'n	816	MC Retro-Active
la Ta	817	MC Eletronica
ß	818	MC Dance
, 5	819	MC Lite Hits
)S	820	MC Adult Top 40
ور	821	MC Hit List
)S	822	MC Kidz Only!
جر	823	MC Party Favorites
وا	824	MC Showcase
¹ 23	825	MC 90s
ď	826	MC 80s
ß	827	MC 70s
la La	828	MC Solid Gold Oldies
la La	829	MC Smooth Jazz
)5	830	MC Jazz
)S	831	MC Blues
ŗs	832	MC Reggae
jd .	833	MC Soundscapes
je ej	834	MC Easy Listening
ct.	835	MC Big Band & Swing
J#	836	MC Singers & Standards
'n	837	MC Show Tunes
ď	838	MC Contemporary Christian

	ور	839	MC Gospel
	1 51	840	MC Classical Masterpieces
	בי	841	MC Light Classical
),	842	MC Pop Latino
	בן	843	MC Musica Urbana
	la cr	844	MC Salsa y Merengue
	13	845	MC Mexicana
	jej	846	MC Rock 'En Espanol
)S	847	MC Americana
	ور	848	MC Opera
	פן	850	KHUI
	p eq.	851	KDNN
	ta E	853	KUCD
	¹ 21	854	KDDB
	ď	857	KPOI
	ß	864	KHPR
	מ	865	KIPO
	la cr	866	KTUH
	,51	867	KSSK
	בי	868	KQMQ
)S	869	KIKI
	ور	870	KUMU
)S	871	KAIM
	S)	880	NOAA
	ور	881	KHVH
	'n	882	KORL
	•	900	Current TV
**	D	907	Our Town - TV Classifieds
**	①	908	Paradise Video Yellow Pages
**	₩	909	Pizza Hut Interactive
**	D	911	Customer Bulletin Board
**	D	912	Jobs On Demand
**	D	914	iADS
**	(Ī)	917	RR Photoshow
**	D	918	AUW Photoshow
**	D	919	PETS
**	•	941	MTV On Demand
**	D	942	Karaoke On Demand
	①	943	Music Choice On Demand

**	94	4 TRX On Demand
**	980-9	989 Movies On Demand Top 10
**	99	0 Movies On Demand
**	99	8 Pizza Hut Interactive
I	100	3 KHON HD
ĺ	100	06 KITV HD
I	100	08 KHNL HD
I	101	10 KHET HD
**	12 1	16 Golf Channel/VS HD
**	▶■ 122	22 ESPN HD
**	122	24 ESPN2 HD
**	▶● 122	26 FSN HD
**	▶● 133	33 Discovery HD Theater
**	134	17 Nat'l Geographic HD
**	•• 135	55 HD Net
**	▶● 155	51 TBS HD
**	•• 155	53 TNT HD
**	▶■ 156	61 Mojo
**	1 60	03 HD Net Movies
**	1 60	05 Universal HD
I	161	11 HBO HD
I	163	33 Showtime HD
**	190	00 HD Showcase On Demand
**	198 198	HI Movies (In Demand Ion 10)
**	199	90 HD On Demand
** •	• 170	00 HD PPV
**) 199	99 Channel One

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From: Bob Flatt [robert@fishes.com]

Sent: Wednesday, October 31, 2007 11:04 AM

To: 'Davis, Sandy'

Cc: 'Newlon, Wendy'; 'cabletv@dcca.hawaii.gov'

Subject: RE: HD on Cable Cards

It is clear that the FCC considers SDV a special case of one-way programming enabled for CableCard users by the Tuning Resolver. That TWC, a leader in the introduction of SDV and required by law to support one-way programming to CableCard users, has no information on the Tuning Resolver is beyond belief. Especially so, given I provided you with a link to the FCC documentation.

In the context of TWC currently refusing to sell some one-way programming packages to CableCard users, a possibly illegal action, your response is insufficient as it does not address the issue.

Please ask your manager to contact me.

I have CC'd the Hawaii State Department of Commerce and Consumer Affairs on this e-mail as this is related to my September 17th and 26th complaints to it's Cable Television Division.

From: Davis, Sandy [mailto:sandy.davis@twcable.com]

Sent: Wednesday, October 31, 2007 6:51 AM

To: Bob Flatt **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

Mr Flatt - I still have no more information than what I stated before at this time. When I do I will

let you know. Thank you,

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Tuesday, October 30, 2007 3:21 PM

To: Davis, Sandy **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

Sandy,

Checking in (its been a week), how is the Tuning Resolver research going? When do you expect to get back to me?

Thanks

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Tuesday, October 23, 2007 3:09 PM

To: 'Davis, Sandy' **Cc:** 'Newlon, Wendy'

Subject: RE: HD on Cable Cards

Thank you. But we still need to shake out this Tuning Resolver issue, as this is the industry agreed approach for SDV and CableCard - saying one can't comment is not sufficient. If you feel unable to respond please ask your manager to respond to me.

I would like to ask you to do some research on TWC and the Tuning Resolver and get back to me, as according to this FCC document http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519612942 (page 32 "II. SWITCHED DIGITAL VIDEO MODIFICATIONS"): "In order to address this issue, the cable industry has worked with CE companies such as TiVo to arrive at a solution that can provide two-way SDV channels to one-way digital cable products through an external device attachment to the UDCP." Pretty clear I would say.

As TWC is a major player cable industry and is currently introducing SDV, the least TWC should be able to say is that it's technology is designed to be <u>interoperable with a Tuning Resolver specification using the current M-card</u>. Or not. I would like to see a clear and complete statement from TWC on Tuning Resolver specification interoperability. (The implementation of a Tuning Resolver is presumably outside of TWC's domain.)

Separately and in my opinion, since SDV is introduced to meet TWC's need for increased efficiency, and the resulting loss of channels removes service from CableCard users. In order to make CableCard users whole, TWC should offer Tuning Resolvers free of charge at it's offices and reference this offer on it's web site. After all on the web site TWC does offer 100% CableCard satisfaction, not 75% satisfaction (or what ever the percentage of non-SDV channels happens to be). As I say, in my opinion; but it seem a reasonable request. A 'yes' would be nice.

From: Davis, Sandy [mailto:sandy.davis@twcable.com]

Sent: Tuesday, October 23, 2007 12:30 PM

To: Bob Flatt **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

Mr. Flatt,

I am trying to respond to all your concerns. See below.

Thank you, Sandy Davis

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Monday, October 22, 2007 3:38 PM

To: Davis, Sandy **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

Oh dear, from my point of view, some of the answers are not addressing my questions.

>>>"1. Local channels will not go into HD Entertainment Pak. If a customer has a HD TV with HD tuner, they will be able to receive HD Broadcast Channels like HD - KHON, KITV, KHNL & KHET, with out a box. There is no additional charge to receive these local channels"

OK, what is the name of the package(s) containing Discovery HD Theatre, HD Net, TBS HD, and TNT HD? HD Entertainment

>>>"A one-way CableCard can look like a two-wayCableCard, however it is different."

I dont get what you are telling me here except the obvious that they are both PCMCIA and 'one' is different from 'two' which seems so trivial that cant be the point. The easiest way to explain this is like a analog box and digital box. Both give the ability to bring in more channels however a digital box has the ability to unscramble channels. The two-way card will have the ability to understand the two-way device and have the ability to bring in the two way applications and channels one-way cannot. This is the two-way solution the cable companies and device companies are working on.

>>>Once a two-way solution has been developed between cable companies and the device company, like Tivo, then we are anticipating having full solution like a digital box. Which means a two-way card with the solution using a two-way device will give all the interactive functions.

OK, I understand you are talking about the as yet unstandardized two-way solution, however I was asking about the "Tuning Resolver" and I didnt see that anyplace in your response... I know you want me to answer each one individually, however regarding the Tuning Resolver, I read some articles describing this device but I have no details on it, so I can't comment on it's future ability.

From TWC's point of view will a Tuning Resolver in combination with a one-way device such as TiVo function with SD? (please answer all 3 separately):

- 1) with a current M-Card (Multi-stream Cable Card) -
- 2) with a current two-way card (named what?) = M Card
- 3) with a future two-way card for interactive services = (M Card)

From TWC's point of view will a Tuning Resolver in combination with a one-way device such as TiVo function with Interactive services such as PayPerView? (please answer all 3 separately):

- 1) with a current M-Card
- 2) with a current two-way card (named what?)
- 3) with a future two-way card for interactive services

And a couple of questions were missed that are not about Cards, Devices, or Channels (although these may be TWC internal justifications but that is not the point of these questions), simply about marketing (what is available to purchase):

1) I understand TWC will not currently sell the HD Entertainment Pak to CableCard customers, are any other

Paks currently unavailable for purchase? If any please list.

Currently, not sold

Sports Pak & Spanish Pak. Not a pak but a pay channel is the Chinese channel

2) Will currently unavailable for purchase Paks be available for purchase when Tuning Resolver and CableCard devices are available?

When two-way solution is created between cable companies and device companies, then yes all of this will be available for purchase.

From: Davis, Sandy [mailto:sandy.davis@twcable.com]

Sent: Monday, October 22, 2007 12:20 PM

To: Bob Flatt **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

- Local channels will not go into HD Entertainment Pak. If a customer has a HD TV with HD tuner, they will be able to receive HD Broadcast Channels like HD - KHON, KITV, KHNL & KHET, with out a box. There is no additional charge to receive these local channels.
- 2. What will not be part of HDE are the pay channels that are already subscribed to like HBO, Cinemax, Showtime, Starz, etc. Also events or movies that will be charged through Pay Per View or Movies on Demand product. Pretty much other new channels could be in HDE.
- 3. A one-way CableCard can look like a two-wayCableCard, however it is different. The one-way card will be swapped out for a two-way card for the same monthly price. Once a two-way solution has been developed between cable companies and the device company, like Tivo, then we are anticipating having full solution like a digital box. Which means a two-way card with the solution using a two-way device will give all the interactive functions.
- 4. Further clarification:
- 1 way-card will not give: Pay Per View, On Demand, two way channels, Sports Pak, Chinese channel, Spanish Pak and HD Entertainment Pak. Two way channels are shown in the grid provided earlier and subject to change.
- 2-way solution should give full access to the channels above and all interactive functions.
- 5. Start Over function not available in 1-way, however the channel can be available. Start over is a function that allows customers to start the programming over if they tuned to channel after it started. It has nothing to do with authorizing the channel for viewer ship. We are anticipating the two-way solution to allow this function.

Hope this helps.

Thanks again, Sandy Davis

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Friday, October 19, 2007 10:04 AM

To: Davis, Sandy **Cc:** Newlon, Wendy

Subject: RE: HD on Cable Cards

Sandy,

Thank you, very clear and pretty comprehensive. I have some clarification questions because there are

lots of combinations:

A) In which package do I find HD programming that is not currently part of HD Entertainment Pak or HBO or Showtime.

for example: local HD programming, Discovery HD Theatre, HD Net, TBS HD, TNT HD. Is there a 'big picture'

as to which channels will go into the HD Entertainment Pak, and which will go into the 'HD non-Entertainment

Pak' (sorry, sounds derogatory that is not the intent - I just needed to invent a descriptive name). This is a

marketing question not a technology implementation question.

B) From TWC's point of view will a Tuning Resolver (when available) and in combination with a one-way CableCard

device, be equivalent to a two-way CableCard device? So can I expect a Tuning Resolver will allow viewing of TWC

SD channels (and local radio) on a TiVo? (I understand that you don't speak for TiVo).

- C) Will TWC interactive services be available on the two-way CableCard device?
- D) I understand TWC will not currently sell the HD Entertainment Pak to CableCard customers, are any other

Paks currently unavailable for purchase? (again this is a marketing question not a technology implementation question)

Will these Paks be available for sale when two-way CableCard devices are available?

E) Start Over is not available on a one-way device, does that mean (like SD) the channel is not available

on a one-way CableCard device or does it mean the feature is not available? Will the SO channel be available on

a two way CableCard device? Will the feature available on a two way CableCard device?

Mahalo

From: Davis, Sandy [mailto:sandy.davis@twcable.com]

Sent: Thursday, October 18, 2007 5:21 PM

To: robert@fishes.com **Cc:** Newlon, Wendy

Subject: FW: HD on Cable Cards

Mr Flatt.

I'm sorry you weren't able to speak with me, however here is our response to your concerns.

- 1. We are working on updating the Oceanic.com web site to clarify cable card policy and HD Entertainment Pak. We will always continue advising customers as they sign up for cable card installs..
- 2. Cable Card customers will continue receiving local HD Broadcast Channels like HD KHON, KITV, KHNL & KHET
- 3. FCC does require Local HD Broadcast channels to be available to TVs without the use of a box or cable card. HD TVs with a built in HD tuner have this ability for local broadcast channels.
- 4. FCC require two-way device to accept a two-way cable card in order to have the ability to receive all channels like a digital box. Currently, cable companies and device companies are working towards this 2-way device

- solution. There are no two way devices sold at the stores today, however we do have two-way cable cards ready for deployment.
- 5. One-way cable cards and one-way TVs will not have the ability to receive Pay Per View, On Demand, two way channels, Sports Pak, Chinese channel, Spanish Pak and HD Entertainment Pak. Two way channels are shown in the grid and subject to change..
- 6. Unidirectional video and unidirectional audio = 1 way
- Video & audio channel transmitted on Oceanic TWC using a bidirectional electronic protocol is considered by Oceanic TWC as two-way programming, such as SD
- 8. Divisional directives used in the previous email means policy's, like the changes for cable card, was set by Oceanic Time Warner Cable.
- 9. Start Over application is a two-way application and not available to one-way cable card and one-way devices.
- 10. Moving channels over to a two-way digital platform is needed to efficiently deliver more programming. We will not be able to wait, as there is a need to add more programming.

Thank you, Mr Flatt, for giving us the time to answer your concerns.

Sincerely, Sandy Davis

From: Newlon, Wendy

Sent: Monday, October 15, 2007 10:31 PM

To: Davis, Sandy

Subject: FW: HD on Cable Cards

Hi Sandy, forwarding Mr. Flatt's response.

Thanks

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Monday, October 15, 2007 7:54 PM

To: Newlon, Wendy

Subject: RE: HD on Cable Cards

Thank you for the .xls attachment, please tell Sandy that I prefer e-mail communication.

From: Newlon, Wendy [mailto:wendy.newlon@twcable.com]

Sent: Monday, October 15, 2007 1:22 PM

To: robert@fishes.com

Subject: FW: HD on Cable Cards

Mr. Flatt.

Our Director of Customer Service, Sandy Davis will be calling you. I have given her 808-328-0634 if this number is not correct; please let me know what number we can reach you at.

Thanks Wendy

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Sunday, October 14, 2007 4:09 PM

To: Newlon, Wendy

Cc: Iokepa, Wayne; Hough, Lorene **Subject:** RE: HD on Cable Cards

Wendy,

Thanks for your response, but I am still not clear. In order to make a choice I need to understand TWC's new CableCard policy.

I do now understand some of the features and pricing of the TWC cable box. I do hear your suggestion as to what I can do with my TiVo box. But I am still not clear on the details of TWC's new CableCard policy, lets focus on that.

I find that TWC's new CableCard policy is not clear (and in fact incredulous) because:

- a) The new policy is not documented on TWC's web site.
- b) Some of the new policy as spoken and in your e-mails contradicts documentation published on TWC's web site.
- c) The new policy appears contrary to the FCC's published view, see "Compatibility of Cable TV \dots Receivers":

http://www.fcc.gov/cgb/consumerfacts/plugandplaytv.html.

d) TWC has not supplied me with a copy, or addressed my previous comments about inconsistencies.

Understand that as a customer I find this incoherent, please clarify by supplying a complete copy of TWC's new CableCard policy.

I do have some specific questions:

- 1) List all TWC marketing packages that will be <u>un</u>available for purchase by CableCard equipment users. Where is this publicly documented?
- 2) Which TWC packages contain the HD programming listed in the Channel Lineup, but not listed in any other package, and not part of the HD Pak (defined on the web under Prices)? For example the local TV stations in HD, Discovery

HD Theatre, HD Net, TBS HD, TNT HD, HBO HD, and Showtime HD. Where is this publicly documented?

- 3) Is it correct that any unidirectional video or audio channel transmitted on TWC's cable using a bidirectional electronic protocol (such as SD) is considered by TWC as not 'one-way programming'?
- 4) Your e-mail references "divisional directives" without specifying the contents it is not possible for me to know what you are discussing, please clarify the contents of these directives.
- 5) Do "Start Over Channels" impact Cable Cards? I do understand that these are currently Oahu and Kauai only.
- 6) Will TWC consider deferring it's new CableCard policy until functioning Tuning Resolvers are commercially available? (See http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native or pdf=pdf&id document=65 19612942 page 33)

If you are unable to answer any question please arrange for somebody at TWC, who is qualified, to provide the requested information by written response and as soon as possible.

And finally FYI, I did not receive your e-mail dated 10/11/07 but which you included in this thread. I notice the "To:" field in that e-mail is different from your other e-mails to me, perhaps you have some e-mail configuration error. Just FYI.

Thank you.

From: Newlon, Wendy [mailto:wendy.newlon@twcable.com]

Sent: Friday, October 12, 2007 3:28 PM

To: robert@fishes.com

Cc: Iokepa, Wayne; Hough, Lorene **Subject:** FW: HD on Cable Cards

Aloha Mr. Flatt, I have spoken with The Director of Customer Service, the Big Island will continue to comply with our divisional directives. We would like to offer you some alternatives that we will keep in place until two way devices such as TV and TiVo are available for public purchase.

Offer -

Box (s) at cable card rate \$ 2.40

FREE- IPG w/music choice

Free DVR for 1 TV

The box will give you the ability to order:

Pay Per View
On Demand Movies

Interactive Guide

The solutions offered will give you more ability. It was recommended, if applicable, for consumers to take advantage of TiVo's 30-day Return plan. Later when TiVo comes out with a two way solution, you will be able to get all the benefits and two way abilities.

Please keep in mind that HDTV Broadcast channels can still be view with your one way cable card. Also if your HDTV has a built in tuner you can view the HD Broadcast channels. Our HD Entertainment Pak can not be viewed with out the cable box.

IF you would like to take advantage of our offer, please let me know and I will assist in helping to get everything set up for you. Again we thank you for your continued support.

Mahalo, Wendy

From: Newlon, Wendy

Sent: Thursday, October 11, 2007 2:02 PM

To: 'Bob Flatt ' **Cc:** Iokepa, Wayne

Subject: FW: HD on Cable Cards

Aloha Mr. Flatt, I have spoken to Wayne earlier and am following up per your 2 voice messages to him. I have spoken with The Director of Customer Service this morning and she will be meeting with the VP of operations to discuss these issues. She will be in contact with us after her meeting; at that point we will be in contact with you. Sorry for all the inconvenience and we hope to have some answers for you real soon.

Mahalo, Wendy

From: Bob Flatt [mailto:robert@fishes.com] **Sent:** Tuesday, October 02, 2007 12:16 PM

To: Newlon, Wendy **Cc:** Iokepa, Wayne

Subject: RE: HD on Cable Cards

Aloha Wendy,

Thanks for your response. But I'm still not clear.

Is the hearsay correct? Oceanic TWC currently does not sell the HDTV package to new Hawaii CableCard customers? Are any other TWC packages (such as Spanish Pak) similarly unavailable?

I note that as of today the Oceanic web site:

http://www.oceanic.com/OceanicWebApps/Television/DigitalServices/CableCard.html explicitly states that HD is available to CableCard users, mentions no constraints on non-interactive channels, mentions no TWC internal constraints such as Switched Digital, and ensures 100% satisfaction. Please understand that TWC customers have been, and are, making long term equipment purchases on the basis of these TWC statements. Privately stating such equipment is now obsolete (with a few weeks notice) while concurrently publishing compatibility statements generates confusion, and does not contribute to customer satisfaction. Normal industry practice is to provide years of notice of a change, as with the switch from analog to digital broadcast TV.

I infer from your e-mail that the HDTV package is unavailable for sale to new customers (but this is not clear), and that you will look into changing this until such time as 'Switched Digital' is implemented in Kona. That would be a temporary reprieve, mahalo.

On a related note, the TWC "Important Notice to CableCARD Customers", says selected channels "will only be available with a digital set top box or a two way CABLECARD with a two way device". When will two-way CableCards be available from TWC? Obviously a 'two way device' is an issue for third party vendors and out of TWC's control, so please don't comment on that.

Bob

From: Newlon, Wendy [mailto:wendy.newlon@twcable.com]

Sent: Tuesday, October 02, 2007 9:59 AM

To: robert@fishes.com **Cc:** Iokepa, Wayne

Subject: HD on Cable Cards

Aloha Mr. Flatt.

Per my conversation with Wayne lokepa, I am happy to send you the information I have regarding the HD service w/ cablecards.

The current CableCARD technology only enables access to our "one-way" programming services. We are moving channels over to a two-way digital platform in order to efficiently deliver more programming and channels will continue to be added. In order to receive these channels, including the future HD

channels, Interactive Program Guide, On Demand services and Pay Per View, a digital set-top box is required.

On 09/24/07, the Switch digital channels will no longer be available to TVs or other one-way devices equipped with CableCARD(s) for Oahu and Kauai. Unfortunately, although we currently do NOT offer Switch digital channels, we have no choice but to comply with our Divisional directives. Because the Big Island currently does not offer Switch Digital channels, I am doing a follow up with our Division to continue to offer these services until the switch takes place on the Big Island. Once I find out if this will be possible I will let you know. Once we offer Switch digital channels and you are receiving these channels and want to continue after this change, then each CableCARD(s) can be exchanged for a digital cable box (es) at no extra charge.

We thank you for your continued support as Oceanic Time Warner is constantly looking for innovative ways to deliver new programming, as well as enhancing the delivery of existing programming.

These Switch Two Way Digital Channels will only be available with a digital settop box. Call 643-2100 to switch out your CableCARD (s) to a digital set-top box (es).

Channel #	Channel Description	Included with
47	CSPAN-2	Digital Cable Service
102	Jewelry Channel	
117	CNBC World	Digital Cable Service
120	Pentagon Channel	
121	The Weather Channel	Digital Cable Service
130	KOAM	
132	AZN TV	Digital Cable Service
134	Imaginasian	Digital Cable Service
242	NBA TV	Sports Pak
243	Tennis	Sports Pak
244	Fox College Sports - Atlantic	Sports Pak
245	Fox College Sports - Central	Sports Pak
246	Fox College Sports - Pacific	Sports Pak
247	College Sports TV	Sports Pak
349	Ocean Network	
410	Inspirational TV	
556	Sleuth TV	Digital Cable Service
597	BET On Jazz	Digital Cable Service
598	BET	Digital Cable Service
689	Galavision	Spanish Pak
690	Fox Sports World Espanol	Spanish Pak

691	CNN Espanol	Spanish Pak
692	Discovery en Espanol	Spanish Pak
699	Chinese Channel	Premium
783	CSPAN-3	Digital Cable Service
930	New Hope	
1216	HD Golf/HD Versus	HD Entertainment Pak
1226	Fox Sports Net HD	HD Entertainment Pak
1605	Universal HD	HD Entertainment Pak
1700	HD PPV	

We will continue to add channels to this two way line up. Mahalo

Wendy Newlon-Hill Customer Service Supervisor Oceanic Time Warner cable 73-4876 Kanalani St Kailua Kona, Hi. 96740 (808) 331-4901

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